

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BLACK AND WHITE ENTERTAINMENT, INC.,	:
d/b/a “RAH MUZIC” & “RAH RECORDS,”	:
	:
Plaintiff,	: Case No. 20-cv-08384
	:
-against-	:
	: Hon. J. Paul Oetken
MARVEL ENTERTAINMENT, LLC; COLUMBIA	:
PICTURES INDUSTRIES, INC.; SONY	:
PICTURES ENTERTAINMENT INC.; SONY	:
PICTURES RELEASING CORPORATION; SONY	:
PICTURES HOME ENTERTAINMENT INC., and	:
TENCENT PICTURES (USA) LLC; CHARLES K.	:
WILLIAMS professionally known as, “KEAK DA	:
SNEAK”; and SULTAN BANKS, professionally	:
known as “TRAXAMILLION”,	:
	:
Defendants.	:
	:
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ORDER FOR ADDITIONAL DISCOVERY

WHEREAS, Defendants Sony Pictures Entertainment Inc., Sony Pictures Releasing Corporation, Sony Pictures Home Entertainment Inc., Columbia Pictures Industries, Inc. and Marvel Entertainment, LLC (collectively, the “Studio Defendants”), have requested further discovery relating to Plaintiff Black and White Entertainment, Inc.’s claim of copyright ownership of the sound recording titled *Super Hyphy* at issue in this action (the “Recording”) and the alleged agreement between Plaintiff and Defendant Charles K. Williams by which Plaintiff claims to have acquired such copyright ownership (the “Agreement”);

WHEREAS, Plaintiff has submitted a declaration from its principal Albert Keys, Jr. (the “Declaration”) attesting that he created the version of the alleged Agreement produced in this action using a different agreement and to having provided false testimony concerning the alleged Agreement at Plaintiff’s Rule 30(b)(6) deposition;

NOW, on consideration of the materials submitted by the Studio Defendants in regards to the foregoing, and the entire record of this case;

IT IS HEREBY ORDERED that, on or before January 26, 2022, Plaintiff and its counsel, Schwartz, Ponterio & Levenson, PLLC (“Schwartz Ponteiro”), shall provide to the Court any and all communications between Plaintiff and Schwartz Ponteiro discussing, referencing or otherwise concerning: (i) the alleged Agreement; (ii) Plaintiff’s deposition testimony concerning the alleged Agreement; and/or (iii) Plaintiff’s recanting of such testimony in the Declaration, for the Court’s *in camera* review to determine whether such communications shall be produced to Defendants pursuant to the crime-fraud exception;

IT IS FURTHER ORDERED that, on or before January 26, 2022, Schwartz Ponteiro shall produce to Defendants any and all communications with any non-parties to this action (excluding agents of Plaintiff and/or Schwartz Ponteiro) that discuss, reference or otherwise concern: (i) the ownership, use and/or exploitation of the Recording; and/or (ii) the alleged Agreement;

IT IS FURTHER ORDERED that the deposition of Marion Mouton shall be permitted to proceed on January 16, 23 or 30, or any other day in January 2022 upon which the parties agree;

IT IS FURTHER ORDERED that the Studio Defendants are hereby granted leave to serve document and deposition subpoenas on non-party Kittrick Redmond by Federal Express (or similar courier service) and email to the mailing and email addresses identified in Plaintiff’s initial disclosures, and service shall be deemed completed upon the filing of proof of service attesting to same;

IT IS FURTHER ORDERED that Plaintiff shall produce its principal Albert Keys, Jr. for Plaintiff’s continued deposition, to take place by video in February 2022 on a date to be agreed

upon by the parties, for a total of four (4) hours as measured by the time on the deposition transcript.

SO ORDERED.



J. PAUL OETKEN
United States District Judge

Dated: January 7, 2022
New York, New York